

ASSEMBLY BILL

No. 1851

Introduced by Assembly Member Bradford

February 19, 2014

An act to amend and repeal Section 46601 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, as introduced, Bradford. School attendance: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the school districts. If the governing board of either of 2 school districts subject to such an agreement fails to approve a request for a permit to attend another school district that is also a party to the agreement within 30 calendar days after the person having legal custody of a pupil has requested the permit, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the person requesting the permit shall be advised of the right to appeal to the county board of education, as specified. Existing law requires the county board of education, within 30 calendar days after the appeal is filed, to determine whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of time, unless the county board of education is located in a class 1 or class 2 county, as defined, in which case the county board of education, until July 1, 2015, is required to make this determination within 40 schooldays.

This bill would delete the July 1, 2015, repeal date thereby indefinitely requiring a county board of education located in a class 1 or class 2

county, as defined, to determine within 40 schooldays whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of time. The bill would make nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 46601 of the Education Code, as amended
2 by Section 2 of Chapter 87 of the Statutes of 2011, is amended to
3 read:

4 46601. (a) If, within 30 calendar days after the person having
5 legal custody of a pupil has so requested, the governing board of
6 either school district fails to approve interdistrict attendance in the
7 current term, or, in the absence of an agreement between the *school*
8 districts, fails or refuses to enter into an agreement, the *school*
9 district denying the permit, or, in the absence of an agreement, the
10 *school* district of residence, shall advise the person requesting the
11 permit of the right to appeal to the county board of education.

12 (b) If, within 14 calendar days after the commencement of
13 instruction in a new term in each of the school districts,
14 respectively, when the person having legal custody of a pupil has
15 so requested separately of each *school* district not later than 30
16 calendar days ~~prior to~~ *before* the commencement of instruction in
17 that term in that *school* district, the governing board of either *school*
18 district fails to approve interdistrict attendance in that term, or, in
19 the absence of an agreement between the *school* districts to permit
20 that attendance, fails or refuses to enter an agreement, the *school*
21 district denying the permit, or, in the absence of an agreement, the
22 *school* district of residence, shall advise the person requesting the
23 permit of the right to appeal to the county board of education.

24 (c) Notifying *school* districts shall also, in all instances, advise
25 persons making unsuccessful requests for interdistrict attendance
26 of all of the following:

27 (1) The person having legal custody may appeal, within 30
28 calendar days of the failure or refusal to issue a permit, or to enter
29 into an agreement allowing the attendance, to the county board of
30 education having jurisdiction over the *school* district of residence
31 of the parent or legal guardian or person having legal custody.

Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the ~~county board's~~ *board of education's* designee that appeals within the *school* districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of *education* may remand the matter for further consideration by the *school* district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) ~~is applicable,~~ *applies*, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the *school* district in which the pupil desires to attend and the applicable period of time.

(ii) The county board of education in a class 1 or class 2 county shall, within 40 schooldays after the appeal is filed, determine whether the pupil should be permitted to attend in the *school* district in which the pupil desires to attend and the applicable period of time.

(B) In the event that compliance by the county board of *education* within the time requirement for determining whether the pupil should be permitted to attend in the *school* district in which the pupil desires to attend is impractical, the county board of *education* or the county superintendent of schools, for good cause, may extend the time period for up to an additional five ~~school days~~ *schooldays*. The county shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of *education's* rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the *county board of education* unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of *education's* rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative

1 panel of three or more certificated persons appointed by the county
2 board of education. Section 27722 of the Government Code ~~is~~
3 ~~applicable~~ *applies* to a hearing by ~~any~~ *an* impartial administrative
4 panel and, for purposes of this section, the term “hearing officer”
5 in Section 27722 of the Government Code includes an impartial
6 administrative panel. ~~No~~ A member of the impartial administrative
7 panel shall *not* be a member of the county board of education, nor
8 be employed by the school district of residence or the *school*
9 district of desired attendance.

10 (D) The definitions of “class 1 county” and “class 2 county” in
11 subdivision (e) of Section 48919.5 apply to this section. If the
12 hearing officer is not authorized to decide whether the pupil should
13 be permitted to attend in the *school* district in which the pupil
14 desires to attend, the county board of education, within 10 days of
15 receiving the recommended decision pursuant to subdivision (b)
16 of Section 27722 of the Government Code, shall render a decision.

17 (3) The county supervisor of attendance, or other designee of
18 the county superintendent of schools, shall investigate to determine
19 whether local remedies in the matter have been exhausted and to
20 provide any additional information deemed useful to the county
21 board *of education* in reaching a decision.

22 (4) If the interdistrict attendance involves school districts located
23 in different counties, the county board of education having
24 jurisdiction over the *school* district denying a permit, or refusing
25 or failing to enter into an agreement to allow for the issuance of a
26 permit, shall have jurisdiction for purposes of an appeal. If both
27 *school* districts deny a permit, or refuse or fail to enter into an
28 agreement to allow for the issuance of a permit, the county board
29 *of education* having jurisdiction over the *school* district of residence
30 shall have jurisdiction for purposes of an appeal and, upon granting
31 a pupil’s appeal, shall seek concurrence in the decision by the
32 county board *of education* of the other county which shall provide
33 adequate opportunity for the *school* district under its jurisdiction
34 to be heard on the matter before making a decision. If the two
35 county boards *of education* do not then concur, the pupil’s appeal
36 shall be denied.

37 (5) Pupils who are under consideration for expulsion, or who
38 have been expelled pursuant to Sections 48915 and 48918, may
39 not appeal interdistrict attendance denials or recisions while

1 expulsion proceedings are pending, or during the term of the
2 expulsion.

3 ~~(d) This section shall become inoperative on July 1, 2015, and,~~
4 ~~as of January 1, 2016, is repealed, unless a later enacted statute,~~
5 ~~that becomes operative on or before January 1, 2016, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 SEC. 2. Section 46601 of the Education Code, as added by
8 Section 3 of Chapter 87 of the Statutes of 2011, is repealed.

9 ~~46601. (a) If, within 30 calendar days after the person having~~
10 ~~legal custody of a pupil has so requested, the governing board of~~
11 ~~either school district fails to approve interdistrict attendance in the~~
12 ~~current term, or, in the absence of an agreement between the~~
13 ~~districts, fails or refuses to enter into an agreement, the district~~
14 ~~denying the permit, or, in the absence of an agreement, the district~~
15 ~~of residence, shall advise the person requesting the permit of the~~
16 ~~right to appeal to the county board of education.~~

17 ~~(b) If, within 14 calendar days after the commencement of~~
18 ~~instruction in a new term in each of the school districts,~~
19 ~~respectively, when the person having legal custody of a pupil has~~
20 ~~so requested separately of each district not later than 30 calendar~~
21 ~~days prior to the commencement of instruction in that term in that~~
22 ~~district, the governing board of either district fails to approve~~
23 ~~interdistrict attendance in that term, or, in the absence of an~~
24 ~~agreement between the districts to permit that attendance, fails or~~
25 ~~refuses to enter an agreement, the district denying the permit, or,~~
26 ~~in the absence of an agreement, the district of residence, shall~~
27 ~~advise the person requesting the permit of the right to appeal to~~
28 ~~the county board of education.~~

29 ~~(c) Notifying districts shall also, in all instances, advise persons~~
30 ~~making unsuccessful requests for interdistrict attendance of all of~~
31 ~~the following:~~

32 ~~(1) The person having legal custody may appeal, within 30~~
33 ~~calendar days of the failure or refusal to issue a permit, or to enter~~
34 ~~into an agreement allowing the attendance, to the county board of~~
35 ~~education having jurisdiction over the district of residence of the~~
36 ~~parent or legal guardian or person having legal custody. Failure~~
37 ~~to appeal within the required time is good cause for denial of an~~
38 ~~appeal. An appeal shall be accepted only upon verification by the~~
39 ~~county board's designee that appeals within the districts have been~~
40 ~~exhausted. If new evidence or grounds for the request are~~

1 introduced, the county board may remand the matter for further
2 consideration by the district or districts. In all other cases, the
3 appeal shall be granted or denied on its merits.

4 (2) (A) The county board of education shall, within 30 calendar
5 days after the appeal is filed, determine whether the pupil should
6 be permitted to attend in the district in which the pupil desires to
7 attend and the applicable period of time.

8 (B) In the event that compliance by the county board within the
9 time requirement for determining whether the pupil should be
10 permitted to attend in the district in which the pupil desires to
11 attend is impractical, the county board or the county superintendent
12 of schools, for good cause, may extend the time period for up to
13 an additional five schooldays. The county shall provide adequate
14 notice to all parties of the date and time of any hearing scheduled
15 and of the opportunity to submit written statements and
16 documentation and to be heard on the matter pursuant to rules and
17 regulations adopted by the county board of education in accordance
18 with this chapter. The county board rules may provide for the
19 granting of continuances upon a showing of good cause. The
20 county board of education shall render a decision within three
21 schooldays of any hearing conducted by the board unless the person
22 who filed the appeal requests a postponement.

23 (C) In a class 1 or class 2 county, the county board rules may
24 provide for any hearing pursuant to this section to be conducted
25 by a hearing officer pursuant to Chapter 14 (commencing with
26 Section 27720) of Part 3 of Division 2 of Title 3 of the Government
27 Code, or by an impartial administrative panel of three or more
28 certificated persons appointed by the county board of education.
29 Section 27722 of the Government Code is applicable to a hearing
30 by any impartial administrative panel and, for purposes of this
31 section, the term “hearing officer” in Section 27722 of the
32 Government Code includes an impartial administrative panel. No
33 member of the impartial administrative panel shall be a member
34 of the county board of education, nor be employed by the school
35 district of residence or the district of desired attendance.

36 (D) The definitions of “class 1 county” and “class 2 county” in
37 subdivision (c) of Section 48919.5 apply to this section. If the
38 hearing officer is not authorized to decide whether the pupil should
39 be permitted to attend in the district in which the pupil desires to
40 attend, the county board of education, within 10 days of receiving

1 the recommended decision pursuant to subdivision (b) of Section
2 27722 of the Government Code, shall render a decision.

3 ~~(3) The county supervisor of attendance, or other designee of~~
4 ~~the county superintendent of schools, shall investigate to determine~~
5 ~~whether local remedies in the matter have been exhausted and to~~
6 ~~provide any additional information deemed useful to the county~~
7 ~~board in reaching a decision.~~

8 ~~(4) If the interdistrict attendance involves school districts located~~
9 ~~in different counties, the county board of education having~~
10 ~~jurisdiction over the district denying a permit, or refusing or failing~~
11 ~~to enter into an agreement to allow for the issuance of a permit,~~
12 ~~shall have jurisdiction for purposes of an appeal. If both districts~~
13 ~~deny a permit, or refuse or fail to enter into an agreement to allow~~
14 ~~for the issuance of a permit, the county board having jurisdiction~~
15 ~~over the district of residence shall have jurisdiction for purposes~~
16 ~~of an appeal and, upon granting a pupil's appeal, shall seek~~
17 ~~concurrence in the decision by the county board of the other county~~
18 ~~which shall provide adequate opportunity for the district under its~~
19 ~~jurisdiction to be heard on the matter before making a decision. If~~
20 ~~the two county boards do not then concur, the pupil's appeal shall~~
21 ~~be denied.~~

22 ~~(5) Pupils who are under consideration for expulsion, or who~~
23 ~~have been expelled pursuant to Sections 48915 and 48918, may~~
24 ~~not appeal interdistrict attendance denials or recisions while~~
25 ~~expulsion proceedings are pending, or during the term of the~~
26 ~~expulsion.~~

27 ~~(d) This section shall become operative on July 1, 2015.~~